

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA) COUNTY OF WAKE))) IN THE MATTER OF:)) THE LICENSURE OF) ROBERT STEWART) NPN #18193265)) Respondent.)))))	BEFORE THE COMMISSIONER OF INSURANCE ORDER AND FINAL AGENCY DECISION Docket Number: 2040
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This matter was heard on Thursday, June 10, 2021, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance, Agent Services Division (hereinafter “Petitioner” or “ASD”). Respondent Robert Stewart (hereinafter, “Respondent”) did not appear.

Jeff Miller testified for the Petitioner. Petitioner introduced Exhibits 1-12 into evidence.

Due to the Respondent’s failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and attached Petition for Administrative Hearing may be taken as true or deemed to be proved without further evidence.

Based on the allegations set forth in the Notice of Hearing in this matter, as well as documentary and testimonial evidence introduced at the hearing, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

1. The Notice of Administrative Hearing and attached Petition and the Affidavit of Service were admitted into evidence as administrative exhibits.

2. Respondent is a resident of Pennsylvania.

3. The Department has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds a Non-Resident Producer License with lines of authority in the areas of Life & Accident and Health or Sickness issued by the Department, National Producer Number 18193265. Respondent's license was first issued on July 30, 2018.

4. Jeff Miller, a Complaint Analyst with the Agent Services Division (ASD) of the North Carolina Department of Insurance ("Department"), testified that this matter came to ASD's attention due to a "PIC Alert", whereby the Department receives an alert when a licensee has had an adverse regulatory action in another state. These regulatory actions are reflected on the "RIRS report", which showed that Respondent had received adverse regulatory action against his insurance license effective October 24, 2019 in Maryland. The Maryland administrative action was due to Respondent's failure to disclose criminal convictions on his license application.

5. Mr. Miller testified that this matter was initially assigned to ASD Complaint Analyst Lisa Webb, and it was later transferred to Mr. Miller. Mr. Miller testified that upon re-assignment of this matter to him, he reviewed the entire file concerning this matter, including Ms. Webb's notes and correspondence in the file, which are kept in the regular course of business.

6. Documentary evidence admitted at the hearing showed that when Respondent initially submitted his license application and screening questions to the Department on or about July 30, 2018, he answered "No" to the screening questions regarding whether he had previously had misdemeanor or felony convictions.

7. Documentary evidence admitted at the hearing showed that Respondent in fact had three criminal convictions at the time he submitted his license application to the Department. These convictions were for disorderly conduct/engaging in fighting (2013), criminal mischief (2014), and disorderly conduct (2018).

8. Documentary evidence admitted at the hearing showed that Respondent received administrative actions in several states related to his failure to report these criminal convictions. Documentary evidence admitted at the hearing showed that Respondent uploaded documents related to these criminal convictions into the NIPR Attachment Warehouse, including court documents showing the convictions and his handwritten explanations of these convictions.

9. Documentary evidence admitted at the hearing indicated that Respondent had uploaded an explanation into the NIPR Attachment Warehouse as to why he had not disclosed these convictions on his license application. This explanation was that he had either forgotten about the convictions or did not know they were still on his record.

10. Documentary evidence admitted at the hearing shows that Ms. Webb first contacted Respondent by email on December 6, 2019 concerning his failure to timely report the October 24, 2019 administrative action in Maryland, requesting a response within ten (10) business days from Respondent. Respondent failed to respond to this request.

11. Documentary evidence admitted at the hearing shows that Ms. Webb sent another email to Respondent on January 6, 2020, again requesting a response from Respondent. Ms. Webb thereafter noted in her file that Respondent called Ms. Webb and informed her that he would upload the documents requested. However, Respondent did not do so.

12. Documentary and testimonial evidence admitted at the hearing show that following Ms. Webb's January 6, 2020 email to Respondent, Respondent received several administrative actions in other states, some of which Respondent timely reported to the Department through the NIPR Attachment Warehouse. However, Respondent did not timely report two administrative actions within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

- a. Respondent did not timely report an administrative action in the form of a "Stipulation and Consent Order" that he received in Vermont on March 5, 2020 for failure to accurately answer screening questions on his license application. Mr. Miller testified that this is an administrative action that Respondent is required to timely report within thirty (30) days pursuant to N.C. Gen. Stat. § 58-33-32(k).
- b. Respondent did not timely report an administrative action in the form of a "Consent Order" that he received in New Hampshire on October 1, 2020 for failure to accurately answer screening questions on his license application and for failure to timely report other administrative actions. Mr. Miller testified that this is an administrative action that Respondent is required to timely report within thirty (30) days pursuant to N.C. Gen. Stat. § 58-33-32(k).

13. Mr. Miller testified that, following his initial administrative action in Maryland dated October 24, 2019, Respondent received a subsequent administrative action in Maryland that effectively replaced the initial October 24, 2019 Maryland administrative action. Respondent timely reported the new Maryland administrative action. As such, ASD deemed the Maryland administrative action timely reported and did not pursue further action against Respondent for failure to timely report the October 24, 2019 administrative action.

14. Testimony and documentary evidence admitted at the hearing showed that on September 3, 2020, Mr. Miller sent Respondent a notice of an informal conference set for October 16, 2020 via phone. In the informal conference notice letter, Mr. Miller set forth the reasons for the conference as being Respondent's alleged failure to accurately answer the application screening questions regarding his criminal background, and Respondent's failure to timely report the Vermont administrative action. Respondent failed to attend this informal conference.

15. On October 22, 2020, Mr. Miller sent Respondent a letter via both email and first class USPS mail again requesting a response and documentation, and also notifying him that he had received an administrative action in New Hampshire and that he must report that administrative action, which was not yet late pursuant to N.C. Gen. Stat. § 58-33-32(k). Respondent did not respond or upload the requested documentation.

16. On December 1, 2020, Mr. Miller sent Respondent another informal conference notice for an informal conference via telephone on December 17, 2020, citing his failure to timely report the administrative actions in Vermont and New Hampshire within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k), as well as his failure to accurately answer the screening questions regarding his criminal history on his license application. Mr. Miller sent this informal conference notice letter by both email and first class USPS mail. Respondent did not attend the informal conference and did not thereafter contact ASD.

17. Petitioner requested that Respondent's licenses be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2), noting that Respondent has failed to provide requested responses and documentation to ASD on numerous occasions and has failed to attend two (2) informal conferences.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. The Notice of Administrative Hearing was properly served on Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

3. Pursuant to 11 NCAC 01.0423(a)(1), as sanction for Respondent's failure to appear at the hearing, the allegations of the Notice of Hearing and attached Petition may be taken as true or deemed to be proved without further evidence.

4. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition.

5. Respondent's failure to accurately answer the screening questions on his July 30, 2018 North Carolina license application regarding whether he had prior criminal convictions is a violation of N.C. Gen. Stat. § 58-33-46(a)(1). Respondent had criminal convictions for disorderly conduct/engaging in fighting (2013), criminal mischief (2014), and disorderly conduct (2018).

6. Respondent's failure to report the administrative action against his Vermont insurance license to the Department within thirty (30) days of the effective date of that action is a violation of N.C. Gen. Stat. § 58-33-32(k).

7. Respondent's failure to report the administrative action against his New Hampshire insurance license to the Department within thirty (30) days of the effective date of that action is a violation of N.C. Gen. Stat. § 58-33-32(k).

8. N.C. Gen. Stat. § 58-33-46(a)(2) allows the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other state. Respondent's licenses are subject to suspension or revocation under N.C. Gen. Stat. § 58-33-46(a)(2) for failing to accurately answer the license application screening questions in violation of N.C. Gen. Stat. § 58-33-46(a)(1) and for his failure to report the Vermont and New Hampshire administrative actions to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

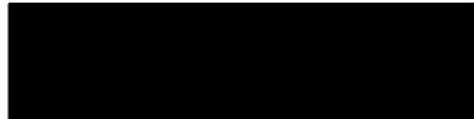
9. Respondent did not provide a response or documentation as requested by ASD on several occasions. He also failed to attend two informal conferences. Respondent has not shown an interest in retaining his North Carolina insurance licenses.

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 8th day of July, 2021.



A. John Hoomani
Hearing Officer
N.C. Department of Insurance

APPEAL RIGHTS

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with 11. NCAC 01.0413 and N.C. Gen. Stat. § 1 A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; via first class U.S. mail to the licensee, at the addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); to an additional address known for Respondent; and via State Courier to Attorney for Petitioner, addressed as follows:

ROBERT STEWART
614 WASHINGTON AVE.
UNIONTOWN, PA 15401-6619

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Certified Mail Tracking Number: 70200640000031856527

ROBERT STEWART
27 GRANT STREET
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Certified Mail Tracking Number: 70200640000031856510

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(Attorney for Petitioner)

This the 8th day of July, 2021.



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